



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

JOHN HOVORKA, MD  
909 NTH JACKSON RD  
MCALLEN, TX 78502

#### **Respondent Name**

TEXAS MUTUAL INSURANCE CO

#### **Carrier's Austin Representative Box**

Box Number 54

#### **MFDR Tracking Number**

M4-13-0011-01

#### **MFDR Date Received**

September 04, 2012

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "This letter is in response to the EOB and check we received and denial of payment for the MMI and Impairment Rating providing by Dr. Hovorka on 04-18-12. The original bill was for \$815.00. **The rationale for the denial of payment was that the MMI/IR is not valid for this date of service and this provider was not certified/eligible to be paid for this procedure on this date of service.** We respectfully request your reconsideration and have attached form AADEP a copy of the certificate which reveals that the doctor was certified to perform the examination on this patient on the date of service provided."

**Amount in Dispute:** \$800.00

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Texas Mutual Insurance Company received a TWCC-60 form the above-mentioned requestor. Pursuant to Commission Rule 133.307(d) Texas Mutual files the attached, completed response, and related items.

The following is the carrier's statement with respect to this dispute of 4/18/12.

The requestor performed MMI and IR exam on the date above then submitted bills for this to Texas Mutual. Upon receipt of the billing Texas Mutual reviewed the TX COMP website to ascertain if the requestor had been approved by DWC to do these exams. TX Comp showed the requestor was approved to perform them starting 5/12/12. (Attachment) Although the requestor submitted documentation he attended a training course with the American Academy of Disability Evaluating Physicians March 30-30, 2012, such documentation is not the same as DWC approval. (See requestor's DWC-60 packet)

No payment is due."

**Response Submitted by:** Texas Mutual Insurance Company

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 18, 2012	CPT Code 99455-V4-WP	\$800.00	\$0.00

## ***FINDINGS AND DECISION***

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### **Background**

1. 28 Texas Administrative Code §133.307 amended to be effective May 31, 2012, *37 Texas Register* 3833, applicable to medical fee dispute resolution requests filed on or after June 1, 2012, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §130.1 sets out the guidelines for Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment.
3. 28 Texas Administrative Code §134.204 sets out the fee guideline for workers' compensation specific services on or after March 1, 2008.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated June 06, 2012

- CAC-B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service
- 304 – MMI or IR Certification is not valid for this date of service

Explanation of benefits dated July 24, 2012

- CAC-B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service
- 304 – MMI or IR Certification is not valid for this date of service

### **Issues**

1. What are the guidelines for a health care provider to certify Maximum Medical Improvement and Evaluation of Permanent Impairment?
2. Does the requestor's documentation support disputed service as billed?
3. Is the requestor entitled to reimbursement?

### **Findings**

1. 28 Texas Administrative Code §130.1 states in pertinent parts, "(a) Authorized Doctor. (1) Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment. (A) Doctors serving in the following roles may be authorized as provided in subsection (a)(1)(B) of this section. (i) the treating doctor (or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor, in which case the treating doctor is not authorized); ... (B) Prior to September 1, 2003 a doctor serving in one of the roles described in subsection (a)(1)(A) of this subsection is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI. On or after September 1, 2003, a doctor serving in one of the roles described in subsection (a)(1)(A) of this section is authorized as follows: (i) a doctor whom the commission has certified to assign impairment ratings or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI; and (ii) a doctor whom the commission has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI. (2) Doctors who are not authorized shall not make findings of permanent impairment, certify MMI, or assign impairment ratings and shall not be reimbursed for the examination, certification, or report if one does so. A certification of MMI, finding of permanent impairment, and/or impairment rating assigned by an unauthorized doctor are invalid. If a treating doctor finds that the injured employee has permanent impairment but is not authorized to assign an impairment rating, the doctor is also not authorized to certify MMI and shall refer the injured employee to a doctor who is so authorized.
2. Review of the requestor's documentation finds a copy of the requestor's Report of Medical Evaluation form (DWC-69). Form DWC-69 indicates in Section II (Doctor's Role) box 13 that the doctor performing the exam is the Treating Doctor. The requestor also checked letter b in Section IV box 17 (Permanent Impairment) certifying that the employee has permanent impairment as a result of the compensable injury. The amount of permanent impairment is 27%. A note in Box 17 states: "A finding of no impairment is not equivalent to a 0%

impairment rating. A doctor can only assign an impairment rating, including a 0% rating, if the doctor performed the examination and testing required by the AMA Guides.”

3. A review of the Division’s records finds that the health care provider is not authorized by the Division to assign impairment ratings/MMI. Therefore, in accordance with 130.1(a) (2) reimbursement is not recommended.

### **Conclusion**

For the reasons stated above, the division finds that no additional reimbursement is due.

### **ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

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Signature	Medical Fee Dispute Resolution Officer	Date

8/30/13

### **YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**